

REMARKS

In the Final Office Action¹, the Examiner rejected claims 19-21, 23-26, 33-35, 37, 38, 43, 44, 46, 47, and 49 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,762,748 to Maattaet et al. ("Maattaet") in view of U.S. Patent No. 5,504,502 to Arita et al. ("Arita").

By this Amendment, Applicant has amended claims 19 and 26 and added new claim 50. Support for the amendments to claim 19 and new claim 50 can be found in the specification at, for example, page 14, lines 10-26. Claims 19-21, 23-26, 33-35, 37, 38, 43, 44, 46, 47, 49, and 50 remain pending and under current examination.

Applicant respectfully traverses the rejection of claims 19-21, 23-26, 33-35, 37, 38, 43, 44, 46, 47, and 49 under 35 U.S.C. § 103(a) as being unpatentable over Maattaet in view of Arita. A *prima facie* case of obviousness has not been established.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. See *M.P.E.P.* § 2142, 8th Ed., Rev. 6 (Sept. 2007). "A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention." *M.P.E.P.* § 2145. Furthermore, "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" at the time the invention was made. *M.P.E.P.* § 2143.01 (III), *internal*

¹ The Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement of characterization in the Final Office Action.

citation omitted. Moreover, “[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” *M.P.E.P.* § 2141.02(1), internal citations omitted (emphasis in original).

“[T]he framework for objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q 459 (1966).... The factual inquiries ... [include determining the scope and content of the prior art and] ... [a]scertaining the differences between the claimed invention and the prior art.” *M.P.E.P.* § 2141(11). “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” *M.P.E.P.* § 2141(11).

Claim 19 is allowable over the applied references. Figure 3a of Maattaet on which the Examiner relies, illustrates a top view of stacked annular magnets 300 with four magnetic sensors 320, 321, 322, and 323. Maattaet discloses that “the magnets 300 emit a magnetic flux 310 from the north to south poles.” Maattaet, Col. 6, lines 1-2. Therefore, the system in Maattaet is merely unipolarly magnetized and does not teach “a ring-like magnet that is . . . magnetized in the direction of its radius, and includes two or more sets of north-south magnetic poles,” as recited in amended claim 19 (emphasis added).

Arita also does not teach these elements. Figures 8A and 9A of Arita merely disclose “a permanent magnet [18] provided on [a] slider 10, which is magnetized in the vertical direction,” and “a magnetically reluctant element [14] arranged just below the

permanent magnet [18].” See Arita, Col. 6, lines 5-11. However, there is no mention in Arita of a ring-like magnet that is . . . magnetized in the direction of its radius, and includes two or more sets of north-south magnetic poles,” as recited in amended claim 19 (emphasis added). In fact, these features are completely absent in Arita. Further, the Examiner cited Arita as disclosing various other elements recited in claim 19. See Final Office Action, pages 2-3. Even assuming this characterization of Arita is correct, which Applicant does not concede, Arita fails to cure the deficiencies of Maattaet discussed above.

Accordingly, the references do not establish a *prima facie* case of obviousness. In view of the scope and content of the prior art and the differences between the claimed invention and the prior art, the claimed invention is allowable over Maattaet and Arita.

In view of the above, the Examiner has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the invention of claim 19. Thus, the Examiner has failed to clearly articulate a reason why claim 19 would have been obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of obviousness has not been established with respect to claim 19 and the rejection under 35 U.S.C. § 103(a) must be withdrawn. In addition, dependent claims 20, 21, 23-26, 33-35, 37, 38, 43, 44, 46, 47, 49, and 50 are also allowable at least due to their dependence from claim 19, and Applicant requests the reconsideration and withdrawal of the rejections of these claims.

CONCLUSION

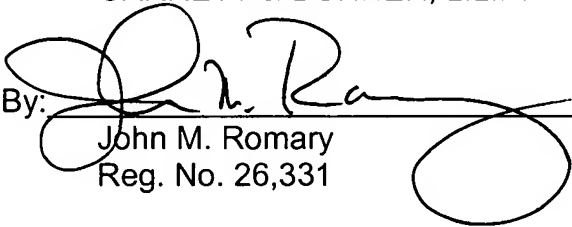
In view of the foregoing amendments and remarks, Applicant submits that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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